

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

UNITED STATES OF AMERICA)
) Case No. 1:10-cr-145
v.)
) MATTICE / LEE
ANTHONY LAMAR McCAIN)

O R D E R

Magistrate Judge Susan K. Lee filed a report and recommendation recommending the Court:

(1) grant Defendant's motion to withdraw his not guilty plea to Count One of the one-count Indictment; (2) accept Defendant's plea of guilty to the lesser included offense of the charge in Count One, that is of possession with intent to distribute a mixture and substance containing a detectable amount of cocaine base ("crack"), in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C); (3) adjudicate Defendant guilty of the lesser included offense of the charge in Count One of the Indictment, that is of possession with intent to distribute a mixture and substance containing a detectable amount of cocaine base ("crack"), in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C); (4) defer a decision on whether to accept the plea agreement until sentencing; and (5) find Defendant shall remain in custody until sentencing in this matter [Doc. 21]. Neither party filed a timely objection to the report and recommendation. After reviewing the record, the Court agrees with the magistrate judge's report and recommendation. Accordingly, the Court **ACCEPTS** and **ADOPTS** the magistrate judge's report and recommendation [Doc. 21] pursuant to 28 U.S.C. § 636(b)(1) and **ORDERS** as follows:

- (1) Defendant's motion to withdraw his not guilty plea to Count One of the Indictment is **GRANTED**;
- (2) Defendant's plea of guilty to the lesser included offense of the charge in Count One,

that is of possession with intent to distribute a mixture and substance containing a detectable amount of cocaine base (“crack”), in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C) is **ACCEPTED**;

(3) Defendant is hereby **ADJUDGED** guilty of the lesser included offense of the charge in Count One, that is of possession with intent to distribute a mixture and substance containing a detectable amount of cocaine base (“crack”), in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C);

(4) A decision on whether to accept the plea agreement is **DEFERRED** until sentencing; and

(5) Defendant **SHALL REMAIN** in custody until sentencing in this matter which is scheduled to take place on **Monday, June 20, 2011 at 2:00 p.m.** before the Honorable Harry S. Mattice, Jr.

SO ORDERED.

ENTER:

/s/Harry S. Mattice, Jr.

HARRY S. MATTICE, JR.
UNITED STATES DISTRICT JUDGE